

which holds that coastal state jurisdiction over the resources of the continental shelf has tended to creep upwards and be translated into claims to comprehensive jurisdiction over the superjacent waters. Conversely, with respect to the freedoms of the high seas, there appears to be some tendency to have these freedoms creep downwards and apply to the subjacent seabed beyond national jurisdiction. There are a number of reasons why such a process would be inappropriate, in our opinion. Although the Canadian delegation is firmly of the view that the seabed beyond national jurisdiction does not represent a legal vacuum, and although there is obviously an interplay between activities on the seabed and the freedoms which prevail in the superjacent waters, this does not mean that a traditional concept related largely to activities on the ocean surface can be made applicable to new activities on the bottom. That traditional concept of the freedom of the seas is currently undergoing a difficult transformation in response to new situations which have created new needs and problems. Its essential features must, of course, be preserved but in a form which will provide greater flexibility for the protection of the interests not only of coastal states but of the international community as well.

What is needed, however, for the new regime for the seabed beyond national jurisdiction is a new concept, in the same way that a new concept was required in developing the regime of the continental shelf. One such new concept has been advanced in this Committee, to the effect that the seabed beyond national jurisdiction represents the "common heritage of mankind". Mr. Chairman, this concept is in many respects an attractive one to the Canadian delegation. We must admit, however, that as a legal principle it presents certain difficulties for us, particularly regarding its possible implications for other areas and other resources. Nevertheless, we are willing to explore it further with other interested delegations in an attempt to resolve those difficulties. And we invite all delegations to approach the concept of the common heritage in such a way that it need not be viewed as necessarily and automatically pre-determining the nature of the proposed regime for the seabed beyond national jurisdiction.

Mr. Chairman, there are only a few additional remarks I should like to make before concluding. Delegates may be aware that since the last session of the Committee the Canadian Government has ratified the Geneva Convention on the Continental Shelf. I wish to emphasize that my Government's position has always been that the Convention generally represents accepted principles of customary international law. This was made clear, for instance in the 1967 reference to the Supreme Court of Canada with respect to jurisdiction over the continental shelf off the coast of British Columbia. Domestic considerations have delayed Canada's ratification of the Convention until this year, but that ratification in no way represents a change in policy on the part of the Canadian Government and is rather the formal act confirming earlier policies.